

Exhibit 17A

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GOOGLE INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 ORACLE AMERICA, INC.,
16 Plaintiffs,
17 v.
18 GOOGLE INC.,
19 Defendant.
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Case No. 3:10-cv-03561 WHA

**DEFENDANT GOOGLE INC.'S
RESPONSE AND OBJECTIONS TO
PLAINTIFF ORACLE AMERICA, INC.'S
REQUESTS FOR PRODUCTION**

SET ELEVEN (NO. 324)

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendant Google Inc. (“Google”), through its attorneys, provides its Responses and Objections to Plaintiff’s Requests for Production to Defendant Google Inc., Set Eleven (“Plaintiff’s Eleventh Request for Production”), served by Plaintiff Oracle America, Inc. (“Plaintiff” or “Oracle”) on November 4, 2015.

GENERAL OBJECTIONS

1. Google responds generally that its investigation of the facts relevant to this litigation is ongoing. Google’s responses herein are given without prejudice to Google’s right to amend or supplement in accordance with Rule 26(e) of the Federal Rules of Civil Procedure, the Civil Local Rules, the Court’s Case Management Orders, and any applicable Standing Orders.

2. Google generally objects to Plaintiff’s Requests for Production, Set Eleven, and the “Definitions and Instructions” related thereto, to the extent they are inconsistent with or impose obligations beyond those required by the Federal Rules of Civil Procedure, the Civil Local Rules, the Case Management Orders entered by the Court, and any applicable Standing Orders. In responding to each Request for Production, Google will respond as required under Rule 34 of the Federal Rules of Civil Procedure.

3. Google generally objects to Oracle’s Requests for Production to the extent Oracle requests materials that predate June 15, 2011 and/or otherwise seek discovery on issues, events, transactions, and/or occurrences that could have, and should have been addressed, if at all, prior to the original trial, including, but not limited to, where such requests were the subject of discovery requests served in the discovery period preceding the original trial. Google similarly objects to the extent the Requests purport to demand production of documents already produced to the parties or logged on privilege logs in this action.

4. Google objects to the term “Documentation” because it is defined by incorporating the phrase “relating to,” which in turn renders the requests for production using the term vague, ambiguous and overly broad.

5. Google objects to the definition of the words “Google,” “You” and “Your” in paragraph 1 of the Definitions of the Requests for Production as overly broad, unduly

1 burdensome, vague, and ambiguous and not proportional to the needs of the case because the
2 definition seeks to expand the definition of “Google” to include all “locations, predecessors,
3 affiliates, successors, subsidiaries, divisions or parts thereof, parent holding companies including
4 without limitation, Alphabet, Inc., and all past or present directors, officers, agents,
5 representatives, employees, consultants, attorneys, and others acting on its behalf.” Such a
6 definition of “Google” expands the definition beyond any reasonable or commonly accepted
7 meaning of the term. Further, Google generally objects to Oracle’s definitions of “Google,”
8 “You,” and “Your” as overbroad and vague to the extent the definitions purport to include
9 Alphabet, Inc., as Google’s proposed reorganization has not yet been finalized.

10 6. Google generally objects to Oracle’s definition of “Android” as vague, ambiguous,
11 overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it
12 includes “any versions thereof ..., any other works derived from Android, and any related public
13 or proprietary source code, executable code, documentation, and Google Android devices.”
14 Android is an open source software project, and Google distributes the source code for Android
15 pursuant to a free and open source license that allows third parties to make modifications to the
16 Android source code that Google distributes. Accordingly, Google objects to Oracle’s definition
17 of “Android” to the extent it purports to include software created, modified, and/or distributed by
18 third parties and not Google. Similarly, Google objects to the term “Google Android devices” as
19 vague and ambiguous and further objects to the term as overly broad, unduly burdensome, and
20 not proportional to the needs of the case to the extent it includes devices running Android
21 software that are manufactured and sold by third parties, including without limitation any original
22 equipment manufacturers, and not Google.

23 7. Google objects to each Request for Production as premature to the extent it seeks
24 expert testimony. Google will disclose such information at the time and in the manner
25 contemplated by the Federal Rules of Civil Procedure, the Civil Local Rules, the Court’s Case
26 Management Orders, and any applicable Standing Orders in this case. Google also reserves the
27 right to supplement to incorporate expert opinion and testimony at the appropriate time.

1 8. Google generally objects to Plaintiff's Requests for Production, Set Eleven to the
2 extent (a) they are not reasonably calculated to lead to the discovery of admissible evidence that
3 is relevant to any claim or defense of any party; (b) they are unreasonably cumulative or
4 duplicative; (c) they seek information that is obtainable from some other source that is more
5 convenient, less burdensome, or less expensive; or (d) the burden or expense of the proposed
6 discovery outweighs any likely benefit.

7 9. Google generally objects to Plaintiff's Requests for Production, Set Eleven as
8 unduly burdensome and not proportional to the needs of the case to the extent that they seek
9 production of data on back-up tapes or any other automatically saved files solely intended for
10 restoration of systems in the event of program failure, including, but not limited to, autosaved
11 drafts of email iteratively created for program failure restoration during the course of preparation
12 of an email. Google further states that, as of November 2012, Google ceased retaining historical
13 copies of the iteratively-created autosave drafts created for program failure restoration. Google
14 further states that it retains historical copies of and will produce (subject to any other asserted
15 objections) emails that were sent, received or saved by document custodians subject to collection
16 in this matter.

17 10. Google generally objects to Plaintiff's Requests for Production, Set Eleven to the
18 extent they seek information, documents, and/or things protected from discovery by the attorney-
19 client privilege, the work product doctrine, the common-interest privilege, and/or any other
20 applicable privilege, immunity, or protection. Nothing contained in Google's responses is
21 intended to be, or in any way shall be deemed, a waiver of any such applicable privilege or
22 doctrine.

23 11. Google generally objects to Plaintiff's Requests for Production, Set Eleven to the
24 extent they seek information, documents, and/or things protected from discovery by court order or
25 other restrictions on disclosure.

26 12. Google generally objects to Plaintiff's Requests for Production, Set Eleven to the
27 extent they request information, documents, and/or things not within the possession, custody, or
28 control of Google, that are as readily available to Plaintiff as to Google, or that are otherwise in

1 the possession of Plaintiff, on the grounds that such requests are unduly burdensome and not
 2 proportional to the needs of the case. Google further states that any agreement to produce is
 3 subject to the parties' negotiations regarding the appropriate scope of discovery, including, for
 4 example, ESI search terms and custodians, and any agreements reached during the parties' meet
 5 and confers.

6 13. Google incorporates by reference these General Objections into the specific
 7 objections and responses set forth below. While Google may repeat a General Objection for
 8 emphasis or some other reason, the failure to specifically refer to any General Objection does not
 9 constitute a waiver of any sort. Moreover, subject to the requirements of Rule 34 of the Federal
 10 Rules, Google reserves the right to alter or amend its objections and responses set forth herein as
 11 additional facts are ascertained and analyzed.

12 **REQUESTS FOR PRODUCTION**

13 **REQUEST FOR PRODUCTION NO. 324:**

14 Source code and DOCUMENTATION for all GOOGLE software that can be used to
 15 facilitate use of ANDROID (including software derived from ANDROID such as Brillo) on
 16 devices other than mobile phones, including by way of example and not limitation source code
 17 and documentation for Weave and source code and documentation for software related to porting
 18 ANDROID to desktop or laptop computers.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 324:**

20 In addition to its General Objections, Google objects to this Request for Production as
 21 overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it
 22 seeks documents related to operations of Google outside of the United States having no
 23 connection with the United States or information not related to any party's claims or defenses or
 24 any relevant subject matter at issue. Google further objects to this Request for Production as
 25 vague, ambiguous, overly broad, unduly burdensome and not proportional to the needs of the case
 26 as to the phrases "Android" and "Android (including software derived from Android such as
 27 Brillo)." Google also objects to this Request for Production as vague, ambiguous, overly broad,
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1 unduly burdensome and not proportional to the needs of the case as to the phrases “can be used to
2 facilitate use,” “devices other than mobile phones,” and “related to porting.” Google further
3 objects to this Request for Production to the extent that it seeks information that is the
4 confidential information of, or proprietary to, or the trade secret of, a third party. Google further
5 objects to this Request to the extent it seeks information, documents, and/or things protected from
6 discovery by the attorney-client privilege, the work product doctrine, the common interest
7 privilege, and/or any other applicable privilege, immunity, or protection.

8 Subject to the foregoing objections and the General Objections, without waiver or
9 limitation thereof, Google requests a meet and confer with Oracle to obtain an explanation of the
10 nature of materials sought by Oracle in this Request.

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13 Dated: December 4, 2015.

KEKER & VAN NEST LLP

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15 By: /s/ Robert A. Van Nest

16 ROBERT A. VAN NEST
17 CHRISTA M. ANDERSON
18 DANIEL PURCELL

19 Attorneys for Defendant
20 GOOGLE INC.
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PROOF OF SERVICE

I am employed in the City and County of San Francisco, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Keker & Van Nest LLP, 633 Battery Street, San Francisco, CA 94111-1809.

On December 4, 2015, I served the following document(s):

**DEFENDANT GOOGLE INC.'S RESPONSES AND OBJECTIONS TO
PLAINTIFF'S INTERROGATORIES, SET 6 (NOS. 38-44)**

**DEFENDANT GOOGLE INC.'S RESPONSES AND OBJECTIONS TO
PLAINTIFF ORACLE AMERICA, INC.'S REQUESTS FOR
PRODUCTION, SET 11 (NO. 324)**

**DEFENDANT GOOGLE INC.'S RESPONSES AND OBJECTIONS TO
PLAINTIFF ORACLE AMERICA, INC.'S REQUESTS FOR ADMISSION,
SET THREE**

☒ by **ELECTRONIC MAIL (PDF)**: Based on an agreement of the parties to accept service by electronic mail, I caused a true and correct copy of the foregoing document(s) to be sent to the person(s) at the electronic notification address(es) listed below. The email was transmitted without error.

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11 Executed on December 4, 2015, at San Francisco, California.

12 I declare under penalty of perjury under the laws of the State of California that the above is true
13 and correct.

14 /s/ Edward A. Bayley
15 Edward A. Bayley